

# Janz Tec AG General Purchasing Terms

## § 1 Scope of application

(1) Orders and/or assignments (“Orders”) as Janz Tec AG (“we” or “Janz Tec”) may place with suppliers, service providers and/or sellers (“Suppliers”) are subject exclusively to these General Purchasing Terms.

(2) Conditions and amendments that deviate from these General Purchasing Terms require a prior express written agreement or Janz Tec’s written confirmation, and this is true even if we accept delivery in full knowledge of the Supplier’s general terms and conditions.

(3) The Supplier must provide legally relevant declarations and notices concerning the agreement (e.g., notices of performance or payment due, rescission) in writing. Formal requirements imposed by applicable law are not affected.

(4) References to the applicability of statutory provisions in these General Purchasing Terms serve purposes of clarification, and such statutory provisions apply even in the absence thereof unless these General Purchasing Terms explicitly amend or exclude them.

## § 2 Conclusion of contract

(1) Only written Orders are binding upon Janz Tec, whereas Orders or arrangements communicated verbally do not acquire binding effect until finalized in writing. The Supplier must alert us to evident errors (e.g., typing or calculating errors) or instances of incompleteness found in a given Order for purposes of correction and/or completion prior to accepting it; otherwise, the agreement is deemed not to have been executed.

(2) The Supplier shall confirm our Order in writing within seven business days. In the event that an Order is confirmed belatedly, such confirmation is considered a new offer and requires Janz Tec’s acceptance.

## § 3 Delivery

(1) Notice of shipment is to be provided in the usual form and without delay.

(2) Deliveries shall be effected free of charge to our warehouse or place of use. For shipments by rail, delivery is effected free of charge to our plant or warehouse, including packaging.

(3) Delivery is deemed to have been effected once the shipment has been received in our warehouse or other stated destination and found to be unobjectionable. Absent our prior approval, the Supplier must not effect partial delivery.

(4) The Supplier is considered to be in default of delivery without further warning as soon as the delivery period has expired unless an extension of such period was previously agreed in writing and save for cases of force majeure, of which the Supplier gave prompt notice. The Supplier is liable for all damages resulting from delivery delays. In addition, Janz Tec is entitled, following the lapse of a reasonable grace period, to refuse acceptance and place a corresponding order with a third party by way of a substitute transaction, with the Supplier to reimburse Janz Tec for any resulting added costs. Notwithstanding other rights, Janz Tec may assert liquidated damages in the form of a penalty amounting to 1% of the invoice amount for each full week for which delivery is delayed, and it may adjust the Supplier’s outstanding claims accordingly. In total, however, such penalty must not exceed 5% of the invoice

amount for the delayed delivery. Janz Tec has the right to furnish evidence to the effect that it sustained greater damages, while the Supplier is free to prove that no, or far lesser, damages were incurred.

(5) The Supplier bears any and all risks associated with transportation, and it must promptly offer compensation irrespective of the cause of damages.

(6) The Supplier must obtain Janz Tec's written approval before delegating an Order, or any part thereof, to subcontractors.

#### **§ 4 Payment**

(1) The price the Supplier quotes at the time of order placement is binding in nature, and it is deemed to include insurance and shipping costs (to our plant or warehouse), customs duties as well as other encumbrances or ancillary expenses, along with any packaging costs to be reported separately. General discounts on list prices or the prices of serial products shall be extended to Janz Tec as well.

(2) The Supplier must pay shipping and insurance costs when items are shipped, and Janz Tec shall be credited for the invoiced amount in full if and to the extent that packaging is returned carriage paid.

(3) We may, at our option, effect payment in the net amount either within 14 days at a 2% discount or within 30 days, such payment period to commence upon invoice receipt – but in any case no sooner than upon the receipt of the underlying goods. For authorized partial deliveries, the payment period does not commence until the last delivery unless deliveries are made under a contract calling for multiple deliveries ("*Sukzessivlieferungsvertrag*"). Payment is based on the quantities determined upon delivery to our plant or warehouse.

(4) Our payments are deemed to have been made, in the case of bank transfers, on the day on which the bank acting on our behalf sends the transfer order to the executing bank or the means of payment (cash or cheque) are handed over or sent. We are entitled to adjust our payments by counter-claims of any kind.

(5) Assignments of the Supplier's claims are invalid without our approval.

#### **§ 5 Warranty**

(1) The Supplier warrants the use of best materials, high-quality professional and clean work, sound construction and design, as well as the proper working order of all parts comprising delivery. In the event that defects are discovered within the warranty period, the Supplier must remove such defects or provide substitutes within a reasonable period of time and at its own expense after we call on it to do so. If no proper remedial performance is rendered by the applicable deadline, we may arrange for a third party to remove such defects or provide substitutes at the Supplier's expense. Whenever we assert defects, the Supplier bears the burden of furnishing evidence to the effect that the defects are not attributable to the Supplier.

(2) Accepting delivery and/or paying the invoice does not relieve the Supplier of the foregoing warranty obligations. The obligation to examine goods and report defects is subject to applicable legal provisions as qualified in the following manner: Our duty to examine goods is limited to defects that clearly reveal themselves on the occasion of our inspection of incoming goods, which consists of a visual examination, including delivery papers, or our quality-control regimen employing random sampling. Insofar as acceptance has been agreed, there is

no obligation to examine goods. In any other respect, what matters is the degree to which an examination makes sense in the regular course of business given the circumstances of a given case.

(3) The warranty extends to all spare parts added to shipments or subsequently ordered from the Supplier. In the latter case, the warranty period commences on the day of delivery. Aside from direct warranty claims, we are entitled to such claims for compensation within a delivery chain as applicable law may prescribe.

(4) At the Supplier's request, goods are returned on its account and at its risk. However, we are entitled to retain them until all of our claims associated with a given delivery have been satisfied.

## **§ 6 IP Rights**

(1) Janz Tec retains the title and reserves all intellectual and industrial property rights including copyrights to the Orders and their content as well as to such models, drawings, samples, descriptions and production documents ("Materials") that may be provided to the Supplier.

(2) Duplication and/or modification is prohibited and gives rise to claims for damages on the part of Janz Tec. Absent our express consent, the Supplier must neither make the Materials available to third parties nor use or duplicate the Materials or allow third parties to do so. At our request, the Supplier must return all Materials free of charge if it no longer needs them in the regular course of business or negotiations do not result in the execution of a contract. In this case, the Supplier must destroy any copy it made of the Materials subject to the duty of retention prescribed by law.

## **§ 7 Liability**

(1) In the event that the Supplier is responsible for product damages, it must indemnify and hold Janz Tec harmless from and against third-party claims if and to the extent that the cause falls within the Supplier's sphere of control and organization and the Supplier itself bears liability in external relations. As part of its indemnity obligation, the Supplier must cover such expenditures as may result from or in connection with the assertion of third-party claims, including recall campaigns, if any. To the extent possible and reasonable, Janz Tec will apprise the Supplier of the substance and scope of recall campaigns and afford it an opportunity to comment. Other claims under applicable law are not affected.

(2) The goods must conform to applicable legal provisions, ordinances and guidelines, the CE provisions, legal and administrative codes as well as the recognized rules of science and technology. Specifically, the Supplier warrants that goods supplied as well as the substances contained therein meet the provisions of Regulation (EC) No 1907/2006 concerning the registration, evaluation, authorization and restriction of chemicals (REACH Regulation), Regulation (EC) No 1272/2008 concerning classification, labelling and packaging of substances and mixtures (CLP Regulation) and Directive 2011/65/EU on the restriction of the use of certain hazardous substances in electrical equipment (RoHS Directive) – in each case, as amended, including any and all addenda, changes, guidelines and applicable national regulations adopted in such regard. In the event that the Supplier violates any of the guarantees or obligations set forth above, Janz Tec is entitled, at any time, to cancel the underlying Order and refuse delivery without incurring costs. Janz Tec's claims for damages, if any, are not affected. The Supplier indemnifies and holds Janz Tec harmless from and against such claims for compensation as customers or other third parties may assert on the basis of the

Supplier's breach of any of the foregoing guarantees or obligations – especially if Janz Tec supplied customers with inaccurate safety data sheets as a result.

### **§ 8 Limitation**

(1) The claims in question expire in accordance with applicable law unless these General Purchasing Terms stipulate otherwise below.

(2) In deviation from statutory provisions, the general period of limitation for claims derived from product defects shall be three years from the receipt of goods. Insofar as acceptance has been agreed, such period commences upon acceptance. Claims from legal defects will not expire under any circumstances so long as a third party may still assert its right against Janz Tec. To the extent that we hold extracontractual claims for damages on account of a defect, the period of limitation prescribed by law (§§ 195, 199 of the Civil Code (*Bürgerliches Gesetzbuch - BGB*) applies if it exceeds the period of limitation stipulated above.

### **§ 9 Miscellaneous**

(1) We are entitled to rescind the agreement or demand damages if the Supplier or an individual involved in preparing, executing or transacting the Order with the Supplier's knowledge offers, promises or grants benefits of any kind to Janz Tec staff or agents – or in their favor.

(2) The place of performance is Paderborn, Germany. If the Supplier is an enterprise, a business, a legal person under public law or a special fund operating under public law, the exclusive legal venue is Paderborn, Germany. However, we are entitled to file suit in the court with jurisdiction over the Supplier's registered offices as well. Such legal provisions as may take precedence, including but not limited to those on exclusive jurisdiction, are not affected.

(3) The contracts entered into between us and the Supplier are subject to the laws of the Federal Republic of Germany to the exclusion of uniform international law, including but not limited to CISG.

Janz Tec AG, Paderborn, Germany – (May 2019)